



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

APR 17 1998

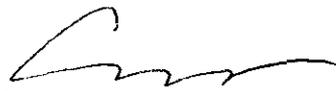
Refer to  
Legislative Secretary

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 526 (LS), "AN ACT TO ADOPT THE FINAL LAND USE PLAN, TO REPEAL AND RE-ENACT CHAPTER 61 OF DIVISION 2 OF TITLE 21 OF THE GUAM CODE ANNOTATED, AND TO AMEND CERTAIN SECTIONS OF ARTICLE 4 OF CHAPTER 60 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION AND DUTIES OF THE GUAM LAND USE COMMISSION, AND TO NAME THIS ACT THE 'I TANO'-TA LAND USE PLAN", which became law without the signature of the Governor. This legislation is now designated as **Public Law No. 24-171.**

Very truly yours,

  
Carl T. C. Gutierrez  
Governor of Guam

04752

Attachment

cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

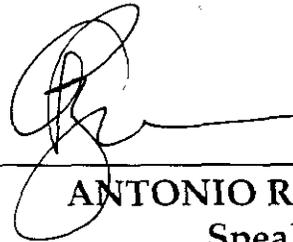
OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	<del>                    </del> 12:30 pm
Date	4.20.98

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 4-20-98  
Time: 0958  
Rec'd by:   
Print Name: Quirer D.

TWENTY-FOURTH GUAM LEGISLATURE  
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

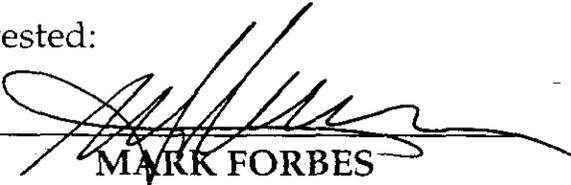
This is to certify that Substitute Bill No. 526 (LS), "AN ACT TO ADOPT THE FINAL LAND USE PLAN, TO REPEAL AND RE-ENACT CHAPTER 61 OF DIVISION 2 OF TITLE 21 OF THE GUAM CODE ANNOTATED, AND TO AMEND CERTAIN SECTIONS OF ARTICLE 4 OF CHAPTER 60 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION AND DUTIES OF THE GUAM LAND USE COMMISSION, AND TO NAME THIS ACT THE "I TANO'-TA LAND USE PLAN," was on the 27<sup>TH</sup> day of March, 1998, duly and regularly passed.



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ANTONIO R. UNPINGCO  
Speaker

Attested:



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MARK FORBES  
Senator and Acting Legislative  
Secretary

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This Act was received by the Governor this 3rd day of April, 1998, at  
10:30 o'clock a.M.



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Assistant Staff Officer  
Governor's Office

APPROVED:

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CARL T. C. GUTIERREZ  
Governor of Guam

Date: April 17, 1998

Public Law No. 24-171  
(Became law without the Governor's signature)

**TWENTY-FOURTH GUAM LEGISLATURE**  
**1998 (SECOND) Regular Session**

**Bill No. 526 (LS)**

As substituted by the Committee on  
Agriculture, Land, Housing, Community  
and Human Resources Development and as  
amended on the Floor.

Introduced by:

J. C. Salas  
E. J. Cruz  
F. B. Aguon, Jr.  
L. F. Kasperbauer  
A. C. Blaz  
J. M.S. Brown  
Felix P. Camacho  
Francisco P. Camacho  
M. C. Charfauros  
W. B.S.M. Flores  
Mark Forbes  
A. C. Lamorena, V  
C. A. Leon Guerrero  
L. Leon Guerrero  
V. C. Pangelinan  
A. L.G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

**AN ACT TO ADOPT THE FINAL LAND USE  
PLAN, TO REPEAL AND RE-ENACT CHAPTER 61  
OF DIVISION 2 OF TITLE 21 OF THE GUAM  
CODE ANNOTATED, AND TO AMEND CERTAIN  
SECTIONS OF ARTICLE 4 OF CHAPTER 60 OF  
TITLE 21 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO THE COMPOSITION AND DUTIES  
OF THE GUAM LAND USE COMMISSION, AND**

**TO NAME THIS ACT THE "I TANO'-TA LAND  
USE PLAN."**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Repeal.** Chapter 61 of Division 2 of Title 21 of the Guam  
3 Code Annotated is hereby repealed in its entirety.

4           **Section 2. Final Land Use Plan.** The Final Land Use Plan, which  
5 is attached hereto as "Exhibit 1," is hereby adopted.

6           **Section 3. Zoning Code of Guam.** A new Chapter 61 of Division 2  
7 of Title 21 of the Guam Code Annotated, pertaining to the zoning laws of  
8 Guam, which is attached hereto as "Exhibit 2," is hereby re-enacted as a new  
9 Chapter 61 to Division 2 of Title 21 of the Guam Code Annotated, entitled the  
10 Zoning Code of Guam.

11           **Section 4. Composition and Duties of the Guam Land Use**  
12 **Commission.** Article 4 of Chapter 60 of Title 21 of the Guam Code  
13 Annotated, and any and all amendments, re-enactments or additions thereto,  
14 are hereby amended as stipulated in Section B, Chapter VIII, of the Zoning  
15 Code of Guam.

16           **Section 5. Additional Provisions.** (a) The Guam Land Use  
17 Commission ("GLUC") shall have prepared a list of all zone changes that have  
18 been approved by the GLUC prior to the enactment of this Act. This list is to  
19 be called the "GLUC Approved Zoning & I Tano'-ta Land Use Plan  
20 Comparison." The list shall identify the applicant, the applicant's approved  
21 GLUC zone change and the equivalent "I Tano'-ta Land Use Plan" Intensity  
22 District to compare previous GLUC approval to proposed zoning under the "I  
23 Tano'-ta Land Use Plan." This list shall be filed with the Zoning Official as

1 evidence, should an applicant feel that his/her property was down-zoned  
2 with the approval of the "I Tano'-ta Land Use Plan."

3 (b) The Guam Planning Council ("GPC") shall develop incentives for  
4 non-conforming structures to comply with the provision of the "I Tano'-ta  
5 Land Use Plan," and submit them to the Guam Legislature for approval  
6 within twelve (12) months of the enactment of this Act. Additionally, the  
7 Guam Planning Council ("GPC") shall assess the risks and costs of the  
8 Performance Standards and Regulations of the "I Tano'-ta Land Use Plan" on  
9 development, and report their findings to the Guam Legislature within twelve  
10 (12) months of the enactment of this Act.

11 **Section 6. Attachments.** The Guam Legislature hereby adopts the  
12 following attachments to the Final Land Use Plan, hereinafter known and  
13 referred to as "Exhibit 3," to wit:

- 14 (a) Guam 2015 Generalized Land Use Plan Map;
- 15 (b) Guam Five (5) Year Zoning Plan Map; and
- 16 (c) Official Zoning Maps of Guam.

17 **Section 7. Funding for the I Tano'-ta Land Use Plan.** The Guam  
18 Legislature does hereby appropriate the sum of One Million Eight Hundred  
19 Eighty Thousand Nine Hundred Eighty-Five Dollars (\$1,880,985) from the  
20 General Fund for FY 1998 implementation of the Plan, as follows:

21 (a) One Million Seven Hundred Forty-nine Thousand Nine Hundred  
22 and Eighty-five Dollars (\$1,749,985.00).

- 23 1. Department of Land  
24 Management; for personnel \$378,073  
25 for equipment \$187,500

1 be reclassified as follows, and the Guam Planning Council staff shall make the  
2 appropriate adjustments:

- |    |     |                         |                      |
|----|-----|-------------------------|----------------------|
| 3  | (a) | Lot No. 155 NEW         | Intensity District 3 |
| 4  | (b) | Lot No. 163 NEW-R1      | Intensity District 3 |
| 5  | (c) | Lot No. 164 NEW         | Intensity District 3 |
| 6  | (d) | Lot No. 164-4           | Intensity District 3 |
| 7  | (e) | Lot No. 156-R5          | Intensity District 3 |
| 8  | (f) | Lot No. 5290-3-R8       | Intensity District 8 |
| 9  | (g) | Lot No. 5292-3-2-2-1    | Intensity District 8 |
| 10 | (h) | Lot No. 5292-3-2-2-2-1  | Intensity District 8 |
| 11 | (i) | Lot No. 5292-3-2-2-2-2  | Intensity District 8 |
| 12 | (j) | Lot No. 5292-3-2-2-2-3  | Intensity District 8 |
| 13 | (k) | Lot No. 5292-3-2-2-2-4  | Intensity District 8 |
| 14 | (l) | Lot No. 5292-3-2-2-2-R4 | Intensity District 8 |
| 15 | (m) | Ipan, Talofoyo          | Intensity District 3 |

16 Any reference in the Final Land Use Plan for Guam, including the  
17 zoning maps, to Ypan, Talofoyo, shall designate Zoning District 3: Moderate  
18 Intensity for Ypan, Talofoyo. This Zoning Designation shall extend from the  
19 eastern coastline to one thousand feet (1,000') west of Route 4, along Route 4,  
20 from the Togcha River to the Talofoyo River Bridge or to the bottom of the  
21 Talofoyo cliffline, whichever is greater.

22 **Section 9.** Any provisions relative to the requirements in the Zoning  
23 Code which are permissive, but not mandatory in nature, to the extent that  
24 they may be required by the Zoning Official or other entity of the government

1	2.	Environmental Protection		
2		Agency;	for personnel	\$167,855
3			for equipment	\$193,564
4	3.	Department of Agriculture;		
5			for personnel	\$179,781
6			for equipment	\$ 93,500
7	4.	Department of Public Works;		
8			for personnel	\$ 75,636
9			for equipment	\$ 30,000
10	5.	Guam Planning Council		
11			for personnel	\$226,286
12			for equipment	\$ 14,300
13	6.	Department of Parks and		
14		Recreation	for personnel	\$156,090
15			for equipment	\$ 30,200
16			for training	\$ 17,200

17 (b) One Hundred Thirty-one Thousand Dollars (\$131,000.00) to the  
18 Mayors Council of Guam to manage the funds in a separate account and  
19 authorize the Municipal Planning Councils to defray the expense of  
20 administering the public hearing requirement in conformance with the I  
21 Tano'-ta Land Use Plan. The funds shall be used for the purchase of  
22 equipment and/or contracting of professional or legal services for the  
23 hearings.

24 **Section 8. Map Amendments.** The following lots or areas as  
25 designated on the 5-Year and 25-Year Zoning Maps of the I Tano'-ta Plan shall

1 of Guam, are amended to allow the imposition of such requirement by the  
2 government of Guam at any time prior to the issuance of the building permit.



24-171  
24<sup>th</sup> GUAM  
LEGISLATURE

COMMITTEE ON  
AGRICULTURE, LAND, HOUSING,  
COMMUNITY & HUMAN RESOURCES DEVELOPMENT

**SENATOR JOHN CAMACHO SALAS**  
**CHAIRMAN**

March 17, 1998

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Agricultural, Land, Housing, Community & Human Resources Development to which was referred **Bill 526** (*An act to adopt the Final Land Use Plan, to repeal and re-enact a new Chapter 61 of Title 21 of the Guam Code Annotated entitled the Zoning Code of Guam, and to amend certain sections of Article 4, Chapter 60 of Title 21 of the Guam Code Annotated, relative to the composition and duties of the Guam Land Use Commission, and to name this act the "I Tano'-ta Land Use Plan*) has had the same under consideration and now wishes to report back the same, with the recommendation **TO DO PASS** as substituted by the Committee.

The Committee votes are as follows:

To Do Pass	<u>8</u>
Not To Pass	<u>1</u>
Abstain	<u>1</u>
Other (Off-Island)	<u>1</u>

A copy of the Committee's report and other pertinent documents are enclosed for your reference and information.

Sincerely,

*John C. Salas*  
Senator John Camacho Salas  
Chairman



# SENATOR JOHN CAMACHO SALAS

## CHAIRMAN

### COMMITTEE ON AGRICULTURE, LAND, HOUSING, COMMUNITY AND HUMAN RESOURCES DEVELOPMENT

## VOTING SHEET

**BILL NUMBER 526**

**TITLE** An Act to adopt the final land use plan, to repeal and re-enact a new Chapter 61 of Title 21 of the Guam Code Annotated entitled the Zoning Code of Guam, and to amend certain sections of Article 4, Chapter 60 of Title 21 of the GCA, relative to the composition and duties of the Guam Land Use Commission, and to name this Act the "I Tano-ta Land Use Plan".

	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 John Camacho Salas, Chairman	✓			
 Edwardo J. Cruz, M.D., Vice-Chairman	✓			
Elizabeth Barrett-Anderson, Member				
 Larry F. Kasperbauer, Member	X			
 Felix P. Camacho, Member	X			
 Carlotta A. Leon Guerrero, Member	✓			
 Thomas C. Ada, Member	✓			
 William B.S.M. Flores, Member	✓			
 Frank B. Aguon, Jr., Member	✓			



24<sup>th</sup> GUAM  
LEGISLATURE

COMMITTEE ON  
AGRICULTURE, LAND, HOUSING,  
COMMUNITY & HUMAN RESOURCES DEVELOPMENT

**SENATOR JOHN CAMACHO SALAS**  
**CHAIRMAN**

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**PUBLIC HEARING**  
Legislative Public Hearing Room  
Thursday, March 12, 1998  
2:00 P.M.

## **AGENDA**

**Confirmation** - Confirmation of Mr. Jesus M. Siguenza to the Guam Housing Corporation Board.

**Bill 500** - An act to add a new Subsection (f) to §4103 and to add a new Article 6 to Chapter 4 of Title 12, Guam Code Annotated, relative to encouraging the construction and purchase of affordable homes by first-time homeowners.

*Bill 500 purposes to offer incentives to first time homeowners through the "First-time Homeowner Relief Program Act". This act provides government assistance for the down payment and/or closing costs on first-time homeownership, including those with leases for Chamorro Land Trust properties. Applicants must be U.S. citizens or permanent alien residents who have lived on Guam for not less than 5 years. The purchase price of a home must be less than \$125,000. The Guam Housing Corporation provides 4% of the total purchase price to lower the down payment and/or closing costs. Further, Bill 500 creates a fund from 0.10% of the GRT collected for the purpose of providing the 4% payment by GHC. This bill is introduced by Senator Vicente C. Pangelinan and Senator Judith Won Pat-Borja.*

**Bill 518** - An emergency act to facilitate access to financing to families recovering from the effects of Typhoon Paka; to promote the construction of typhoon resistant homes; to authorize and facilitate the participation of beneficiaries of the Chamorro Land Trust in the available loan programs; and to appropriate \$2.5 million dollars from the general fund to the Chamorro Loan Guarantee Fund.

*Bill 518 seeks to provide assistance to low and moderate income families in their renovation, rebuilding and new construction of homes. The bill would guarantee mortgages and loans to Chamorro Land Trust beneficiaries as well as appropriate \$2.5 million from the General Fund to the Chamorro Loan Guarantee Fund for this purpose. The bill authorizes the government of Guam to borrow funds for the infrastructure development of Lada Estates, Chamorro Land Trust, Land for the Landless and other government sponsored affordable housing programs. This bill is introduced by Senator Mark Forbes at the request of the Governor.*

**PUBLIC HEARING**  
Legislative Public Hearing Room  
Thursday, March 12, 1998  
2:00 P.M.

**AGENDA**

**Bill 526** - An act to adopt the Final Land Use Plan, to repeal and re-enact a new Chapter 61 of Title 21 of the Guam Code Annotated entitled the Zoning Code of Guam, and to amend certain sections of Article 4, Chapter 60 of Title 21 of the Guam Code Annotated, relative to the composition and duties of the Guam Land Use Commission, and to name this act the "I Tano'-ta Land Use Plan".

*Bill 526 is a comprehensive program providing 15 and 25 year land use plans utilizing Intensity Districts in place of current Zoning. Bill 526 would allow a greater variety of uses on individual properties while protecting community interests through a set of clear and well defined performance standards. Further, Bill 526 would allow "Default to Approval" on minor projects, preventing unnecessary delays in approval. Major and Super Major projects such as hotels would not be subject to a default provision. The plan calls for a 1 year implementation period to allow for responsible agencies to gear up to enforce the new plan. The bill is introduced by Senator John C. Salas and Senator Edwardo J. Cruz, M.D.*

**Bill 533** - An act to suspend the processing of temporary, non-resident worker certifications when Guam's unemployment rate exceeds six percent (6%).

*Bill 533 seeks to suspend the certification of alien temporary workers (H-2) when the Department of Labor certifies that Guam's unemployment rate is at 6%. Suspension of worker certification will become effective on the first calendar of the quarterly period immediately following the department's unemployment report. Worker certification will resume when the Department of Labor certifies that Guam's unemployment rate has fallen below 6%. Further, the bill mandates that should the suspension of H-2 certification be ongoing for 3 consecutive quarters, the Department of Labor shall suspend the use of H-2 workers on job sites and replace them with resident/U.S. workers. Companies certified to employing 10 U.S. registered craft apprentices for every 1 U.S. registered Journeyman shall be exempted from the suspension of H-2 workers. The bill is introduced by Senator John C. Salas and Senator Edwardo J. Cruz, M.D.*



# SENATOR JOHN CAMACHO SALAS CHAIRMAN

## COMMITTEE ON AGRICULTURE, LAND, HOUSING, COMMUNITY AND HUMAN RESOURCES DEVELOPMENT

### TESTIMONY SIGN IN SHEET

Thursday, March 12, 1998

Bill Number 526

Title An Act to adopt the final land use plan, to repeal and re-enact a new Chapter 61 of Title 21 of the Guam Code Annotated entitled the Zoning Code of Guam, and to amend certain sections of Article 4, Chapter 60 of Title 21 of the GCA, relative to the composition and duties of the Guam Land Use Commission, and to name this Act the "I Tano-ta Land Use Plan".

IFIL	Bill Boards of Guam - Betty Santos (Y'SHON)	<input type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
	P.O. Box 2947 Agaña	<input checked="" type="checkbox"/> AGAINST	<input checked="" type="checkbox"/> ORAL
RITA	FRANQUEZ	<input checked="" type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
	PO Box 1672 Agaña	<input type="checkbox"/> AGAINST	<input checked="" type="checkbox"/> ORAL
		<input type="checkbox"/> FOR	<input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST	<input type="checkbox"/> ORAL
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		<input type="checkbox"/> AGAINST	<input type="checkbox"/> ORAL

FISCAL NOTE  
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-F7

Bill Number: 526(LS)  
Amendatory Bill: Yes

Date Received: 03/04/98  
Date Reviewed: 03/15/98

Department/Agency Affected: Land Management  
Department/Agency Head: Carl Agnon  
Total FY Appropriation to Date: \$2,764,000 (General Fund)

Bill Title (preamble): AN ACT TO ADOPT THE FINAL LAND USE PLAN, TO REPEAL AND RE-ENACT A NEW CHAPTER 61 OF TITLE 21 OF THE GUAM CODE ANNOTATED ENTITLED THE ZONING CODE OF GUAM, AND TO AMEND CERTAIN SECTIONS OF ARTICLE 4, CHAPTER 60 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION AND DUTIES OF THE GUAM LAND USE COMMISSION, AND TO NAME THIS ACT THE "I TANO'-TA LAND USE PLAN."

Change in Law: To repeal Chapter 61 of 21 GCA and to add a new Chapter 61 to 21 GCA; to amend Article 4, Chapter 60 of 21 GCA.

Bill's Impact on Present Program Funding:

Increase X Decrease \_\_\_\_\_ Reallocation \_\_\_\_\_ No Change \_\_\_\_\_

Bill is for:

Operations \_\_\_\_\_ Capital Improvement \_\_\_\_\_ Other X

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Natural Resources, Recreation & Arts			11

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						11

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? \_\_\_\_\_ - IF NO, ADD'L AMOUNT REQUIRED \$ \_\_\_\_\_  
AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						11

ANALYST A. Flores DATE 3/15/98 DIRECTOR Joseph E. Rivera, Acting DATE MAR 15 1998

FOOTNOTES: The proposed bill includes an authorization of appropriations totalling \$1,880,985 for various departments/agencies, with no outright appropriations included. However, enactment of the proposed legislation entails increased program costs for personnel and enforcement activities under the I Tano'-Ta Land Use Plan.

**Fiscal Note Comments**

The General Fund revenues available for appropriation, as adopted in Public Law 24-59, is \$353,292,790 (includes \$7,600,000 Autonomous Agency Fund, \$7,000,000 Use Tax and \$36,000,000 in Section 30 funds). The appropriations for FY1998 in P.L. 24-59 is \$346,128,092 plus continuing appropriations for debt service of \$2,504,141 for a total appropriation against of \$348,632,234. Pursuant to P.L. 24-59, surplus FY1998 revenues available for appropriations is \$4.6M.

However, it should be noted that the expected combined collection from both the Autonomous Agency Fund and the Use Tax is only \$3.0M, a reduction of \$11.6M ( $\$14.6 - 3.0 = \$11.6$ ). As such, \$341,739,919 in revenue less \$348,632,234 in appropriations leaves an expected shortfall of (\$6,892,315) as of P.L. 24-59.

**Committee on Agriculture, Land, Housing,  
Community & Human Resource Development**

**COMMITTEE REPORT ON  
Bill 526**

**Bill 526** - An act to adopt the Final Land Use Plan, to repeal and re-enact a new Chapter 61 of Title 21 of the Guam Code Annotated entitled the Zoning Code of Guam, and to amend certain sections of Article 4, Chapter 60 of Title 21 of the Guam Code Annotated, relative to the composition and duties of the Guam Land Use Commission, and to name this act the "I Tano'-ta Land Use Plan". (J.C. Salas, E.J. Cruz, F.B. Aguon, L.F. Kasperbauer)

**I. SYNOPSIS.**

Bill 526 is a comprehensive program providing 5 and 25 year land use plans utilizing Intensity Districts in place of current Zoning. Bill 526 would allow a greater variety of uses on individual properties while protecting community interests through a set of clear and well defined performance standards. Further, Bill 526 would allow "Default to Approval" on minor projects, preventing unnecessary delays in approval. Major and Super Major projects such as hotels would not be subject to a default provision. The plan calls for a 1 year implementation period to allow for responsible agencies to gear up to enforce the new plan. The bill is introduced by Senator John C. Salas and Senator Edwardo J. Cruz, M.D.

**II. PUBLIC HEARING SUMMARY.**

A public hearing was held for Bill 526 on March 12, 1998, at the Legislative Public Hearing Room in Agana.

**III. ATTENDANCE.**

- Senator John C. Salas, Chairman
- Senator Edwardo J. Cruz, M.D., Vice-Chairman
- Senator Tom C. Ada, Member
- Senator Francisco P. Camacho, Guest
- Senator Vicente C. Pangelinan, Guest
- Senator Lou A. Leon Guerrero, Guest
- Senator Angel L.G. Santos, Guest

**IV. TESTIMONIES.**

**Chairman Salas** explained the genesis of the earlier Bill 237. It was passed by the legislature, vetoed by governor, and failed to get an override. "I have resurrected the I Tano'-ta bill now as Bill 526. It is basically the same as the original Bill 237, except the deletion of the Default to Approval for major and super major projects."

Chairman Salas explained how the Default to Approval was negotiated between the Chamber of Commerce and the Technical Advisory Committee in the original Plan, then was deleted by the TPC, and how he put it back in to create a level playing field.

**Ms. Betty Santos** (spoke in Chamorro). She still finds fault with the new I Tano'-ta bill. She explained how she started out her business of putting up signs which she started when she was only 13 years of age. She, like most Chamorros, is not lazy.

"Please help me. Do not harden your hearts to join those who wish to kill my industry. I started since 1967, i.e. painting signs". I am here to ask you to "grandfather" my sign business to have it permitted in your new I Tano'-ta Plan. I work four (4) jobs to support my family. I need your sympathy, your support. I will continue to put up my

signs. It gave me my livelihood since I was 13 and I am seeking your compassion to allow me to continue to paint my signs on walls so I can continue my occupation.

Continuation with her emotional testimony, Ms. Santos pleaded to allow her to have her sign business included in the I Tano'-ta. "If not, I assure I will be homeless. Twice my mom had had an open heart, and I beg your indulgence to try to help us."

**Senator Angel Santos** asked Ms. Santos what it is she wanted. **Ms. Santos** replied that she wanted the plan to allow for Off-site advertisement.

**Chairman Salas** asked the other senators if there were any objections to revisiting this issue. None of the senators present at the hearing had any objection.

**Senator Santos** noted that he might reconsider his vote on I Tano'-ta if the Committee accommodates Mrs. Santos.

Chairman Salas advised Ms. Santos that the Committee will reconsider her concerns.

**Rita Franquez** congratulated the senators in making this accommodation. She fails to understand how this woman (Betty) can be so discriminated by people when all she wants to do is make a living, painting signs on walls.

While the I Tano'-ta Plan is not perfect, we must not wait any more to pass it. We have spent so much money, heard so much testimonies, etc. and yet the I Tano'-ta continues to lag.

The main stumbling block has been the Default to Approval. Don't throw out the entire book just because a few sentences are wrong. If the Default to approval needs to be changed, let's change it and pass the I Tano'-ta.

**Chairman Salas.** Explained that the Default to Approval is still there in the new Bill 526, but only for minor projects.

**Rita Franquez.** She encouraged the senators to pass I Tano'-ta again, and hope this time it gets the Governor's signature.

## **V. COMMITTEE FINDINGS**

The Committee finds that Bill 526 is a much needed plan for Guam and changes made to the "Default to Approval" provision, excluding major and super-major projects from this default while keeping this provision for minor projects, is a good compromise between business and community concerns. Further, the Committee revisited concerns regarding the plan's standards for allowing off-site advertisements.

## **VI. COMMITTEE RECOMMENDATION**

The Committee therefore recommends **TO DO PASS** Bill 526 as substituted.

HIGHSMITH & O'MALLAN, P.C.  
ATTORNEYS AT LAW  
134 CHALAN SANTO PAPA, SUITE 204  
AGANA, GUAM 96910  
TEL:(671) 472-1031  
FAX:(671) 477-6615

March 13, 1998

Senator John C. Salas  
155 Hesler St.  
Agana, Guam 96910

**RE: Legal opinion on Bill 526 (LS)**

Dear Senator Salas:

This letter is in response to your request for a legal opinion regarding Bill 526, the new I Tano-ta Land Use Plan. More specifically, you want to know whether the revised Default-to-Approval section is legal.

I preface this opinion by advising you that I do not have the entire bill to review, and in fact only have the four (4) pages of Bill 526 and two versions of Page 142 of what I believe is Exhibit 1 of the bill. Since your scope of inquiry is very limited, I believe I have sufficient information to state that the revised "new" version of Section 14, page 142, does NOT violate any laws. There are, however, a couple of other concerns I have.

On Page 142 you mention several times provisions involving major or super-major projects. Do you define those terms somewhere else in the bill? If you do, that's fine, but if not then that needs to be remedied. In a related matter, I am concerned why major and super-major projects are getting special treatment.

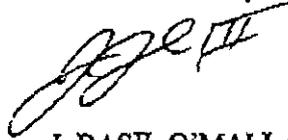
If there are provisions elsewhere in the bill that deal with small projects in a similar manner as major and super-major projects, then there is no problem and the bill is fine. However, assuming there aren't, you have a serious potential problem with disparate treatment. In Section 13 of Page 142 you establish how any decision regarding major or super-major projects becomes final after 45 days. You also provide an appeals provision. Does the same hold true for small projects? It should. I believe the simplest way to remedy the problem is to delete the words "major or super-major." That way the bill accommodates all projects equally.

Returning to the main purpose of this letter, deleting the default-to-approval language creates a problem I'm sure you have already agonized over and will be raised during floor debate — What happens if the Zoning Official does not provide a decision? The purpose of the default-to-approval provision was to hold the Zoning Official's feet to the fire and make him render a decision. There must be some mechanism in place to do that.

The only suggestion I can think of is a fine for every day after the 45th day that the Zoning Official does not render a decision. You can make it a hefty fine, or one based on a percentage of the proposed project. This might provide the impetus for the Zoning Official to act in a timely manner, and also take some of the sting off the applicant waiting patiently at the hands of the Zoning Official.

I hope I have adequately answered your question in this matter. Please contact me if I can be of further assistance in this, or any other, matter.

Sincerely,



J. BASIL O'MALLAN III

OLD  
VERSION

the Municipal Planning Council. It shall also consider the written reviews provided by all other designated governmental agencies. All of these written reviews shall be retained in the files of the Department of Land Management on the particular project in question. Such review shall be completed within fifty (50) working days of the Municipal Planning Council's first public hearing for a major project and seventy (70) working days for a super-major project.

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(13) Any decision to approve or deny a major or super-major project permit by the Zoning Official shall become final after the forty-fifth (45th) working day following a decision, unless an appeal by any aggrieved party or any government agency is filed within such time. If such an appeal is filed, the operation and effect of the Zoning Official's action shall be stayed pending a decision on appeal.

(14) The Zoning Official shall provide a decision on the application within the designated time limits. ~~[Failure on the part of the Zoning Official to act on an application within the specified time period shall result in the application defaulting to approval.]~~ If necessary, the Zoning Official shall convene a meeting with review agency heads to make a decision based upon agency input within these limits. A copy of the decision of the Zoning Official on an application for a major or super-major development permit shall be transmitted in writing to the applicant, and to any person who has requested a copy thereof, within five (5) working days of the date on which a decision had to be rendered.

(15) If an application for a permit is denied by the Zoning Official, the applicant may submit another application. However, such new application may not be submitted in the same form as the one that was denied. The burden to show that any new application is substantially different than the one that was denied shall lie with the applicant.

b. The applicant has the burden of proof to demonstrate compliance with these requirements. Any application that does not comply with all of the requirements shall be denied.

NEW  
VERSION

the Municipal Planning Council. It shall also consider the written reviews provided by all other designated governmental agencies. All of these written reviews shall be retained in the files of the Department of Land Management on the particular project in question. Such review shall be completed within fifty (50) working days of the Municipal Planning Council's first public hearing for a major project and seventy (70) working days for a super-major project.

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33 denied shall lie with the applicant.

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35 b. The applicant has the burden of proof to demonstrate compliance  
36 with these requirements. Any application that does not comply  
37 with all of the requirements shall be denied.  
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1 15. Landscaping: The purpose of this Subsection is to establish aesthetic  
2 standards that will lead to an attractive appearance along public rights  
3 of way through the use of landscaping.

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5 a. A landscaped area shall be provided and maintained in a neat  
6 and orderly manner at the base of every ground sign, in addition  
7 to any other required landscape standards.

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9 b. Real estate, permitted banners and pennants, village fiesta, all  
10 permitted temporary signs, and political signs are exempt from  
11 this requirement.

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13 16. Sign Locations

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15 a. No sign shall be attached to a gutter, drainpipe, or fire escape,  
16 nor shall any sign be installed that impedes access to a roof.

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18 b. No sign shall be installed in any location where, by reason of its  
19 position, it will obstruct the view of any authorized traffic signal,  
20 sign, or other traffic control device.

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22 c. No sign, except for political signs, shall be attached to any tree or  
23 utility pole.

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25 d. ~~[All signs, except for political signs and temporary non-~~  
26 ~~commercial social event signs, shall pertain to a permitted use~~  
27 ~~on the property upon which they are installed.~~

28  
29 ~~e.]~~ No business, office, or industrial use shall have more than two  
30 (2) signs per public right of way frontage.

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32 17. Sign Dimensions

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34 a. Construction or Development Signs: One (1) sign shall be  
35 permitted on any construction or development site. The  
36 maximum sign size shall not exceed sixty-four (64) square feet.  
37 Development or construction signs shall be approved for  
38 installation on any site by the Zoning Official's Office only after a  
39 site plan for the development of that site has been approved by  
40 the Zoning Official.

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15. Landscaping: The purpose of this Subsection is to establish aesthetic standards that will lead to an attractive appearance along public rights of way through the use of landscaping.

- a. A landscaped area shall be provided and maintained in a neat and orderly manner at the base of every ground sign, in addition to any other required landscape standards.
- b. Real estate, permitted banners and pennants, village fiesta, all permitted temporary signs, and political signs are exempt from this requirement.

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- a. No sign shall be attached to a gutter, drainpipe, or fire escape, nor shall any sign be installed that impedes access to a roof.
- b. No sign shall be installed in any location where, by reason of its position, it will obstruct the view of any authorized traffic signal, sign, or other traffic control device.
- c. No sign, except for political signs, shall be attached to any tree or utility pole.
- d. No business, office, or industrial use shall have more than two (2) signs per public right of way frontage.

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**SENATOR JOHN CAMACHO SALAS**  
Twenty-Fourth Guam Legislature

Committee on Agriculture, Land, Housing  
Community & Human Resources Development  
Suite 100, Tanaka Building, Agana, Guam 96910

**COMMITTEE REPORT**

**ON**

**BILL 237 - AN ACT TO ADOPT THE NEW "I TANO'-TA LAND USE PLAN" FOR GUAM, TO REPEAL AND RE-ENACT CHAPTER 61, TITLE 21 GCA, RELATIVE TO THE ZONING LAW OF GUAM, AND TO AMEND CERTAIN SECTIONS OF ARTICLE 4, CHAPTER 60, TITLE 21 GCA, RELATIVE TO THE COMPOSITION AND DUTIES OF THE TERRITORIAL LAND USE COMMISSION.**

**I. BACKGROUND**

Pursuant to P.L. 20-147, the I Tano'-ta Land Use Plan for Guam was transmitted to the 24th Guam Legislature on March 18, 1997 as Bill 199 and Bill 200, and was referred to the Committee on Agriculture, Land, Housing, Community and Human Resources Development.

Senator John Camacho Salas, Chairman for the Committee, held a public hearing on Bill No. 199 and Bill No. 200 on April 22, 1997 at the legislature's public hearing room in Agana, Guam.

Senators present included:

Senator John Camacho Salas, Chairman  
Senator Edwardo J. Cruz, M.D., Vice-Chairman  
Senator Thomas C. Ada, Member  
Senator William B.S.M. Flores, Member  
Senator Lawrence F. Kasperbauer, Member  
Senator Carlotta M. Leon Guerrero, Member  
Senator Frank B. Aguon, Jr., Guest  
Senator Joanne M. S. Brown, Guest  
Senator Lou Leon Guerrero, Guest

Testimonies received during the public hearing indicated that there were major flaws in the I Tano'-ta Land Use Plan (LUP), as approved by the Governor.

P.L. 20-147, which authorized the creation of a LUP, contains strict wording which requires the Guam Legislature to either approve or disapprove the LUP as submitted by the Governor, nothing else. The Legislature found itself in a position where it found major flaws in the LUP but was constrained by P.L. 20-147 from making any amendments.

The Committee determined that since the Legislature was unable to make amendments to the LUP, and since said amendments were necessary, it had no option but to report out Bill 199 and Bill 200 with the recommendation NOT TO PASS.

## II. NEED FOR THE INTRODUCTION OF A NEW I TANO'-TA LAND USE PLAN.

The Committee, while rejecting the LUP as approved by the Governor, desires to implement a Land Use Plan for Guam but which addresses the concerns and issues brought out during the public hearing for bills 199 and 200. Accordingly, Bill 237 is hereby introduced.

## III. COMMITTEE MARKUP MEETING.

The Chairman held a committee markup meeting on Friday, April 25, 1997, at 5:00 PM in the conference room of the Offices of Senators John Camacho Salas and Edwardo J. Cruz, M.D.

Committee members present included:

Senator John Camacho Salas, Chairman  
Senator Edwardo J. Cruz, M.D., Vice-Chairman  
Senator Lawrence F. Kasperbauer, Member  
Senator Thomas C. Ada, Member

Non-committee members present by invitation included:

Senator Joanne M.S. Brown  
Senator Ben C. Pangelinan  
Senator Lou A. Leon Guerrero  
Senator Frank B. Aguon, Jr.

The Chairman briefed the committee of the testimonies presented during the public hearing held on April 22, 1997, and noted that grave concerns were brought out over certain provisions of the I Tano'-ta Land Use Plan (LUP), as approved by the Governor, which opposed the blanket approval of the I Tano'-ta Land Use Plan as submitted by the Territorial Planning Council and as approved by the Governor.

The Chairman further noted that he had received a written legal opinion from Legal Counsel stating that the Legislature can only either approve the plan as submitted or disapprove it; it cannot make amendments on the plan as submitted.

The Chairman explained that the Legislature is therefore left with the following options: (1) approve the LUP as submitted; (2) reject the LUP as submitted; (3) take no action and allow it to become "approved by inaction" after the 60-day period had lapsed from its submittal to the Legislature; (4) reject the LUP as submitted and submit a new I Tano'-ta Land Use Plan bill incorporating the desired amendments.

The Chairman indicated that he would like to report out the LUP at next week's regular legislative session, that he is not favorable to Options 1, 2, or 3 (above), and that he would like to explore Option 4 with the Committee. He opened the floor for discussion.

#### **IV. COMMITTEE DISCUSSION/FINDINGS.**

Senator Ben C. Pangelinan stated that though the wording of PL 20-147 is clear, it is equally clear that the Legislature does have the power to amend, and that no legislature can be irrevocably bound by a previous legislature. The Legislature could reject it (LUP), accept it and amend it. However, to attempt to amend it would only invite legal battles, and that may not be the best approach.

Senator Thomas C. Ada suggested that the Legislature could accept the LUP with condition that it not be implemented until a certain period of time, during which time the Legislature could then come back and make amendments.

Senator Joanne M. S. Brown suggested introducing a bill to amend PL 20-147 to allow the Legislature the option to approve it with amendments.

Chairman John Camacho Salas suggested that the best scenario available to the Legislature would be to reject the LUP as submitted by the Governor, simultaneously prepare a substitute bill with amendments, and have that substitute bill with amendments be the LUP and Zoning Code as the subject for discussion on the legislative floor.

Senator Ben C. Pangelinan concurred and noted that the Minority had conferred with its Legal Counsel and it was also their counsel's advice to reject it and then come back with amendments. Their Counsel's position, he noted, is that the Legislature can indeed make amendments, but the cleaner way to go about it would be to reject it and then come back with a new version, introduce it on the floor, make the necessary amendments, and then send that version back to the Governor.

Senator Eduardo J. Cruz, M. D. agreed that it is best to make amendments and forward that amended version to the Governor, instead of approving it and then coming back with amendments later on.

Senator Lou A. Leon Guerrero asked the Chairman what the committee report on Bill 199 & Bill 200 is then going to read. The Chairman answered that he would like to report out the bills with the recommendation NOT TO PASS, and introduce a substitute bill.

After further discussion, the Chairman asked the members present if they were ready to support the Committee's recommendation by a vote. The members said they were.

The public hearing held for Bill 199 and Bill 200 on April 22, 1997 which elicited many of these amendments incorporated in Bill 237 is deemed as public hearing for Bill 237. The fiscal notes obtained for Bill 199 and Bill 200 are similarly deemed fiscal notes for Bill 237.

**V. COMMITTEE RECOMMENDATION.** By a vote of 4-0, the Committee recommends that a new I Tano'-ta Land Use Plan be reported out **TO DO PASS.**

**VI. APRIL 28 TO MAY 6, 1997 SESSION.** A question was raised during this legislative session whether Bill 237 had a proper public hearing. It was pointed out that a public hearing was held for Bills 199 and 200, but the new Land Use Plan Bill No. 237 did not have a public hearing. Bill 237 deals with a completely new version of the Land Use Plan, and included amendments to the version submitted by the Governor. The Committee of the Whole decided to send Bill 237 back to the Committee on Lands, etc., adopting all amendments made on the floor to date, to hold proper public hearings.

## VII. BILL 237 PUBLIC HEARINGS

### SUMMARY OF TESTIMONY ON BILL 237 May 19 & 21, 1997

#### ATTENDANCE

Senator John Camacho Salas, Chairman  
Senator Eduardo J. Cruz, Vice-Chairman  
Senator Tom C. Ada, Member  
Senator Larry F. Kasperbauer, Member  
Senator Carlotta Leon Guerrero, Member  
Senator Frank Aguon, Jr. Guest  
Senator Joanne Brown, Guest  
Senator Francisco, Camacho, Guest  
Senator Lou Leon Guerrero, Guest  
Senator Vincent Pangelinan, Guest

#### MAY 19, 1997

Mr. Bruce Kloppenburg was concerned that if his property is zoned as a marine district (2M), he will not be able to get the full value or use out of this property. The cost for building a road into the area alone is an estimated \$1 million and as a marine district, he could not develop the property to recoup much of the cost for infrastructural development.

**Response:** The property is presently zoned Agricultural, and won't be down zoned under the land use plan. Some reasonable uses will be permitted, consistent with the present zoning. Mr. Kloppenburg is considering an exchange with the government for this property, and maybe this is the avenue to pursue.

Mr. Clark Guerrero and Mr. & Mrs. Carl Wilson explained their current situation of a quarry next to their agriculturally zoned property. The situation, they said, is affecting their health due to dust, and noise. The committee made clear that the plan does not resolve current situations but does prevent any such situations from occurring in the future.

**Response:** Though the land use plan can not address this existing nuisance, we must ensure the protection from this occurring in the future.

Mr. Albert Quitugua testified that the plan must be specific in dealing with the amount of livestock in an area.

**Response:** Here is one instance where a property owner is requesting that standards be clearly written. Others have testified that too many regulations are not good. A determination should be made by the legislature on which standards are reasonable.

Mr. Honofre Oliva, Jr. testified that in their neighborhood, a piggery was established using a sprinkler system to get rid of the liquid waste. He said this has brought to the neighborhood a disgusting stench which permeates their clothing, house, etc.

**Response:** Again, the land use plan may not be able to correct this existing nuisance. But a lesson can be learned that when allowing major livestock production next to residential areas, the minimum lot size should be greater to

**accommodate larger setbacks to reduce the nuisance. Allowing the sprinkler system in the setback area was a mistake, and should have been thought out more carefully.**

Developer Mr. Dan Swavely testified against the Land Use Plan noting that the affordable housing element is eliminated through expensive performance standards. He also noted that the plan cannot guarantee sound development due to a lack of an economic development plan. He felt that the current system needed repairs, not replacement.

**Response: The existing system imposes standards for development, similar to what is proposed, but complaints were made that the standards were not written. The intent was to put in writing those standards that are reasonable. It's up to the legislature to determine what is reasonable.**

May 21, 1997

Mr. Mike Kuhlmann, Director of the Department of Agriculture requested that the senators ensure farming and other agricultural activities are not overlooked in the plan. He noted that unlike tourism, agriculture does not have a vast database of information on sales, production, etc., because many are small subsistence farmers and sell small amounts in the marketplace. The overall production, then, is under-reported and the impact of farming on the island's economy is undervalued.

**Response: I do not believe that agricultural activities are overlooked. Changes to some of the traditional agricultural practices were proposed, however, to reduce the threat of nuisances on surrounding residential neighbors.**

Mr. Roman Quinata testified that the proposed intensity on Talofoto is too low, delaying much needed sewer infrastructure into that village. He said that as a landowner, he cannot afford to sit on potentially valuable land while waiting years for basic infrastructure.

**Response: The 25-year zoning map can be changed (Ipan area?) to reflect the higher density zone that is requested. This will trigger the utility agency to plan an upgrade. The reality though is that the \$25 million plus could be used for more pressing projects. There is an automatic upgrade to the higher district when sewer comes in.**

Mr. David Del Rosario, Mr. Ben Del Rosario, and Ms. Rose Manibusan testified about the piggery situation in Pagat, Mangilao and asked that the plan ensure enforcement to prevent this type of situation in the future.

**Response: See note from May 19.**

Ms. Betty Santos testified that the plan will eliminate her sign business because of the restrictions placed on her by the performance standards. She asked senators to reconsider the part of the plan that refers to signage and allow for her type of business to continue.

**Response: Ms. Santos has been working with Senator Kasperbauer to propose some amendments.**

Mr. Sonny Ada, Ms. Eloise Baza, Mr. Ron Young and Mr. Frank Campillo testified in support of the plan with the "default to approval" clause intact. The group also requested that a cost/risk analysis be completed regarding the performance standards.

**Response:** The “default to approval” is in the plan, and it will be the decision of the body to leave it in or delete it. I believe it should be left in, since this was negotiated by all parties involved in the development of the plan. The cost-risk analysis should be decided by the legislature also.

Ms. Karen Johnson testified against the plan and noted that no other successful community uses this type of plan. She explained that there ought to be strict separation between certain types of uses, e.g., industrial versus agricultural. She also noted that transitional zones that encourage a gradual shift from one use to another (agricultural -> single family -> planned development, etc.) is another way to ensure that property values and peaceful communities are maintained.

**Response:** Euclidean zoning, which we have today, does not work because of the limited amount of land and the desire of private property owners to do what they wish with their property. Case in point is the numerous requests for spot zoning. The proposed system offers the flexibility requested, with some standards that are necessary to make it all work.

Ms. Stacie Kracjchir, Dr. Katherine Aguon, and Ms. Terri O’Brien testified to maintain the proposed marine preserve zoning for Pago Bay to preserve the environment, and culture of the area.

**Response:** The misconception is that this is a MARINE PRESERVE. It is a Marine district that allows for low density development, consistent with the old agricultural zone, but with additional marine uses.

Mr. Victor Perez, another Pago Bay resident, testified that while a marine preserve is a good idea, there are families of varying income levels in the area and in some cases, all they have is their land to achieve economic goals. He said the plan must create a balance between the environment and economic goals of the island.

**Response:** The proposed zone limits the density in this area to low intensity, and offers some other marine type uses. It is not a zone that restricts all uses, but a zone that limits the intensity of the uses.

Mr. Philip McCormick testified to remove the “default to approval” clause to ensure that projects incompatible with surrounding communities are not automatically approved. He also testified against the plan as it promotes a mixed use system that creates incompatible development such as their community’s situation with the Pacific Island Bible College.

**Response:** The compatibility of the uses allowed in each district was carefully considered. The bible college would not be allowed in the proposed area under the plan. The default to approval clause should be left in.

Ms. Alicia Diego requested that the plan ensure public input, and that all residents in an area be informed of applications for development. She also testified against the “default to approval” clause. She also testified that government agencies and their directors be held accountable and be penalized for developments that are approved that grossly, negatively impact the community.

**Response:** I believe it is unreasonable to request that all development be required to have a public hearing. Adjustments to the threshold table for minor -vs.- major development projects can be made to address this concern.

Mr. Tony Artero testified against the plan stating that the plan is ineffective without a master economic and highway plan.

**Response:** The highway master plan was developed in concert with the land use plan. The economic policies of the government were considered when developing the plan (OEDP), and the plan is consistent with the Governor's Vision 2000, a strategic plan for the island.

Additional testimony can be reviewed on audio cassette tape in our office.

**VIII. COMMITTEE MARKUP.** The Committee decided to hold a series of markup meetings to dissect the massive plan into manageable parts. A copy of the markup summaries follows.

### **COMMITTEE MEETING - B237**

Monday, June 9, 1997

**Members Present:**

Senator John C. Salas, Chairman  
Senator Edwardo J. Cruz, Vice-Chairman  
Senator Frank B. Aguon, Member  
Senator Elizabeth Barrett-Anderson, Member  
Senator Carlotta Leon Guerrero, Member  
Senator Lawrence F. Kasperbauer, Member

**Guests Present:**

Rowena Perez (representing Senator Joanne M.S. Brown)

The first in a series of working sessions was held today to discuss Bill 237, Guam's Land Use Plan. Chairman Salas called the meeting to order at 9:35 a.m.

The first session was devoted to discussing the guidelines with which the committee will work on the land use plan, including guiding principals, and the breakdown of the plan into manageable portions.

- There are so many differing philosophies, views and beliefs on what the island should look like in 25 years and what the plan should do. These guidelines will focus and regulate the various thinking and expression of ideas:

1. We as a Committee must do what is right for the entire island, not what is politically correct.
2. We need to ensure that the Legislature and the people feel a sense of ownership in the plan. It is OUR plan for ALL of US.
3. Present a plan that clearly regulates how we use our scarce land resources and what we want our island to look like in 25 years.
4. The plan is currently so comprehensive it is incomprehensible and thus hard to manage.
5. Simplify the plan so that the average person can understand what it will do.
6. Separate the plan into manageable portions with the understanding that the portions are inter-related and a change in one part affects the whole plan.
7. Issue of plan:
  - \* Citizen's property rights and their infringement by this plan
  - \* Excessive government intrusion on citizens' daily life
  - \* Plan may create extended bureaucracy
  - \* The rights of the majority over the individual

These perspectives were offered by attendees:

- Planning community put together a plan based on their professional perspective, but the individual and individual communities may have a more focused, narrow perspective.
- Mayors expressed concern that they and the municipal level were not taken into account when the plan was made.
- The plan was designed in terms of a control by central government with trickle down of technical standards/regulations to the Municipal level.
- Look at plan as an overall framework for the entire island but which allows a certain amount of control and responsibility at the Municipal level. The proposed plan may be too specific to be an overall framework.
- The plan may not take into account the cultural elements of farming, fishing, etc., and these indigenous, cultural activities may be in danger of being pushed out in favor of development and progress.
- The 21 members of the Legislature is a very good cross section of the island and can represent the island's overall desire for the how the land plan will affect the island.
- The Committee agreed that all subsequent sessions will be held at 4:00 p.m. to 5:30 p.m. to avoid conflicts of senators' schedules. Chairman Salas asked committee members present if they could commit to this aggressive schedule. All noted that they would. The revised schedule is attached

- Committee meetings will be more convenient from 4:00 p.m. and no later than 5:30 p.m. on same days shown on initial schedule. Each member present indicated their commitment to attend.
- For sake of discussion and thinking, the media would not be invited to attend future meetings nor would non-Senators be allowed to sit in. If specific knowledge will be needed, the Chairman would be requested to obtain either the information or talent rather than functioning as a committee of the whole.

## COMMITTEE MEETING - B237

Wednesday, June 11, 1997

### Members Present:

Senator John C. Salas, Chairman  
 Senator Tom C. Ada, Member  
 Senator Frank B. Aguon, Member  
 Senator Elizabeth Barrett-Anderson, Member  
 Senator Carlotta Leon Guerrero, Member

### Guests Present:

Albert Perez (representing Senator Felix P. Camacho)  
 Doris Hong-Yee (representing Senator Joanne M.S. Brown)  
 Ben Gumataotao (representing Senator Tony Blaz)  
 Steve Muna (staff for Senator Elizabeth Barrett-Anderson)

The second in the series of working sessions was called to order by Chairman Salas 4:15 p.m. Members discussed and provided viewpoints on the following:

### 1. Vision of Guam in 25 years

- The least government intervention in individual 's right to use property while respecting surrounding community.
- Traditional village life in residential areas instead of sanitized communities.
- Specific areas of the island for residential, agricultural, industrial uses.
- Modern, metropolitan community with subdivisions and major roadways in the central and north, while the south remains cultural and less populated.
- Primarily residential with the struggle between those that want to keep the traditional village life and those that oppose it. Guam will be shaped as each village wants to be shaped through the municipal/village level.
- Community of high rise building to accommodate the increasing populations.
- A place to live and work but people will go off-island to getaway from "city stress". The south will be eventually enveloped by tourism, on a smaller scale, with more exclusive small resort development.
- Agricultural will vanish with less and less interest in the traditional island lifestyle.

### 2. Manage Growth

- With massive development of the late 80's over, does Guam now need to manage growth or open the doors to development.
- Guam may not be able to manage growth. Instead, growth may manage itself.
- Managing growth is to ensure that development is sustained in harmony with other development such as residences, etc.
- How much growth can the island sustain? Current level of growth has plateaued, but businesses will push for increased growth.
- The Committee and the Legislature as a whole must decide if growth needs to be managed or if development should be allowed to proceed at its own pace.
- To allow for open, uncontrolled growth, there is no need for a plan.
- To manage growth, there must be standards in place.
- Communities can manage growth in what they want and do not want in their villages.

### 3. Should We Update the Restrictive 1966 Master Plan

- 1966 Plan was considered too restrictive.
- The Plans developed after 1966 were never formally adopted. This 1966 Master Plan broke up the island into the "A" zone, "R" zone, "C" zone, etc.
- The 1966 Plan did not take into account the growth and development that occurred over the next 2 decades.
- The TLUC process was created recognizing that zones are too restrictive, but it creates another level of bureaucracy.
- Small development can be handled at the municipal level without TLUC and Legislative participation. Large scale development can remain within the TLUC and Legislature.
- The Legislature with its rezoning power has effectively destroyed the original zoning system as set-up in 1966.
- Combine the good of both plans and come up with a new plan that addresses the entire island's needs.
- The Guam Land Use Plan is a technical manual and it is the role of the Legislature to put that manual into perspective with the community.

Chairman Salas noted that Intensity Districts and Zoning issues will be discussed in the next meeting scheduled for Friday, June 13, 1997. Chairman Salas adjourned the session at 5:20 p.m.

## COMMITTEE MEETING - B237

Tuesday, June 17, 1997

Members Present:

Senator John C. Salas, Chairman

Senator Tom C. Ada, Member  
Senator Frank B. Aguon, Member  
Senator William B. Flores, Member  
Senator Carlotta Leon Guerrero, Member

**Guests Present:**

James Castro (representing Senator Eduardo J. Cruz, Vice Chairman)

The working session for Bill 237 was called to order by Chairman Salas at 4:15 p.m. Members discussed how the Committee will prepare Bill 237 for reintroduction to the 24th Guam Legislature:

- Committee agreed to take Bill 237 back to the Legislature as a whole and allow debate and revisions to be done on the floor.
- Discussion and action by the entire Legislature will ensure ownership of the plan by the entire Legislature.
- Plan is not receiving the participation from enough senators. Making substantive changes in this situation will only invite unproductive debate.
- Committee will review testimony from public hearings held on May 19th and May 20th and recommend any changes to plan, if any, based on testimony provided.
- Invite all senators to submit their recommended changes.
- Provide notice to the general public inviting them to submit additional testimony/comments.
- Report out Bill 237 with a list of all recommended changes received from Senators as well as suggested changes from public testimony. This Committee report will be presented at the next session.
- Provide timetable for the implementation of the plan to senators showing what can and cannot be done during each implementation stage.

Chairman Salas asked that each member present prepare their suggested amendments to the plan, as he will invite other senators to do the same. Chairman Salas adjourned the session at 6:10 p.m.

**COMMITTEE MEETING - B237**

Thursday, June 19, 1997

**Members Present:**

Senator John C. Salas, Chairman  
Senator Eduardo J. Cruz, Vice Chairman  
Senator Tom C. Ada, Member  
Senator Frank B. Aguon, Member  
Senator Elizabeth Barrett-Anderson, Member

**Guests Present:**

Fred Castro (representing Senator Tony Blaz, Vice Speaker)  
Kyle Oh (representing Senator Vicente C. Pangelinan)  
Alvin Duenas (representing Senator Angel L.G. Santos)

The working session for Bill 237 was called to order by Chairman Salas at 4:30 p.m. Members continued discussion on how the Committee will prepare Bill 237 for reintroduction to the 24th Guam Legislature:

- Committee agreed that appropriation of \$1.7 million will need to be addressed in the bill. Format will be to authorize the Legislature to appropriate funds to implement the plan.
- Committee is concerned that agencies may not need full \$1.7 million requested. It may be a matter of reallocating each agency's resources internally, versus bringing in as many additional staff as identified in appropriations request.
- Chairman noted that because of the heavy schedule for the August session, the Speaker has advised his recommendation to bring Bill 237 in October or November.
- Committee members expressed concern that the Default to Approval provision will remain a stumbling block for the passage of this bill.
- The Committee felt that although the elements of the plan may be in question, a plan is needed and the legislature should not throw out the positive elements of the plan based on its negative aspects.

Chairman Salas asked that the minority members ask their colleagues for input regarding their concerns with the bill and likewise the Chairman would do the same with the majority senators. Chairman Salas adjourned the session at 5:20 p.m.

**IX. COMMITTEE RECOMMENDATIONS.** After the committee conducted four meetings to discuss the markup of Bill 237, it was apparent that the committee was not receiving the attendance and participation it expected, nor the support necessary to properly adopt amendments to the plan. Additionally, a comment was made that making substantial changes in Committee would invite unproductive debate in session. Lastly, Senators William Flores and Ben Pangelinan submitted letters to Chairman Salas objecting to breaking the plan up into parts and attempting to handle the plan piecemeal.

A decision was made by the Committee to report the Plan out, sending it back for the next available legislative session, without making any amendments beyond those that were approved in the Committee of the Whole, and allow debate and further amendments to occur on the floor. The Committee will review testimony from the public hearings held on May 19 & 21, 1997, and send a substitute Bill 237 to the Speaker for consideration at the next available session.

**X. COMMITTEE RECOMMENDED CHANGES**

1. Authorize the appropriation of \$1.75 million for the implementation of the plan by the agencies and departments of the government, and \$131,000.00 for the Mayors and their Municipal Planning Councils to administer the plan.
2. Leave the Pago Bay area zoned 2M, but change the zoning of lots 164-NEW, 155NEW, 163NEW-R1, 164-4, 165-R5 from 2M to ID3.
3. Leave "default to approval" provision in.
4. Change floor area ratio for multiple family dwellings in ID3 and 3S tables from 0.25 to 0.50.
5. Change floor area ratio for multiple family dwellings in ID4 table from 0.50 to 1.00.
6. Extend the boundary of the ID8 zone in Pagat, Mangilao to include the following lots:
  - 5290-3-R8
  - 5292-3-2-2-1
  - 5292-3-2-2-2-1
  - 5292-3-2-2-2-2
  - 5292-3-2-2-2-3
  - 5292-3-2-2-2-4
  - 5292-3-2-2-2-R4
7. Change the zoning of the Ipan, Talofofa area to Intensity District 3.



COMMITTEE ON AGRICULTURE, LAND, HOUSING,  
COMMUNITY & HUMAN RESOURCES DEVELOPMENT

SENATOR JOHN CAMACHO SALAS  
CHAIRMAN

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May 6, 1997

MEMORANDUM

To: Mr. Joseph Rivera  
Director, Bureau of Budget & Management Research

From: Senator John Camacho Salas

Subject: Request for Fiscal Note

The Committee respectfully requests the issuance of a Fiscal Note for Bill 237. Bill 237 replaces Bill 199 and Bill 200 (I Tano'-ta Use Plan), which latter bills had been provided a Fiscal Note on April 23, 1997 by BBMR.

Inasmuch as Bill 237 is essentially the same as Bills 199 and 200 - the I Tano'-ta Land Use Plan - (both of which had been issued fiscal notes), this request is merely to re-issue a fiscal note issued to the Bills 199 and 200, now under a new title (Bill 237).

A public hearing on Bill 237 has been scheduled for May 12, 1997

Your assistance in getting this fiscal note on a timely basis so I can proceed expeditiously in reporting out this bill to the Legislature will be greatly appreciated. (2 GCA, Chap 9, §9104).

Thank you for your very kind assistance.

  
John Camacho Salas

Attachment

FISCAL NOTE

**B** BU OF BUDGET AND MANAGEMENT R ARCH

Bill No. 237 Date Received: 10/03/97  
 Amendatory Bill: Yes Date Reviewed: 10/03/97

Department/Agency Affected: Territorial Planning Council  
 Department/Agency Head: Galen Lujan, Executive Assistant  
 Total FY Appropriation to Date: \$204,147 (FY1998)

Bill Title (preamble): **AN ACT TO ADOPT THE FINAL LAND USE PLAN, TO REPEAL AND RE-ENACT A NEW CHAPTER 61, TITLE 21 GCA ENTITLED THE ZONING CODE OF GUAM, AND TO AMEND CERTAIN SECTIONS OF ARTICLE 4, CHAPTER 60, TITLE 21 GCA, RELATIVE TO THE COMPOSITION AND DUTIES OF THE TERRITORIAL LAND USE COMMISSION, AND THIS ACT IS TO BE CALLED THE "I TANO'-TA LAND USE PLAN."**

Change in Law: Repeal and re-enact a new Chapter 61, Title 21 GCA; Amend certain sections of Article 4, Chapter 60, Title 21 GCA.

Bill's Impact on Present Program Funding:

Increase \_\_\_\_\_ Decrease \_\_\_\_\_ Reallocation \_\_\_\_\_ No Change X

Bill is for:

Operations: \_\_\_\_\_ Capital Improvement: \_\_\_\_\_ Other: X

**FINANCIAL/PROGRAM IMPACT**

**ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)**

Program Category	General Fund	OTHER	TOTAL
Government-wide Support	\$0	\$0	\$0

**ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)**

FUND	1st	2nd	3rd	4th	5th	Total
GENERAL FUND	\$0	\$0	\$0	\$0	\$0	\$0
OTHER -	\$0	\$0	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? 1/

IF NO, ADDITIONAL AMOUNT REQUIRED: 1/

AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

**ESTIMATED POTENTIAL MULTI-YEAR REVENUES (Per Bill)**

FUND	1st	2nd	3rd	4th	5th	Total
GENERAL FUND	\$0	\$0	\$0	\$0	\$0	\$0
OTHER -	\$0	\$0	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ANALYST: William P. Taitingfong

DATE: 10/3/97

DIRECTOR: Joseph E. Rivera, Acting

DATE: OCT 03 1997

FOOTNOTE: 1/ See attached comments.

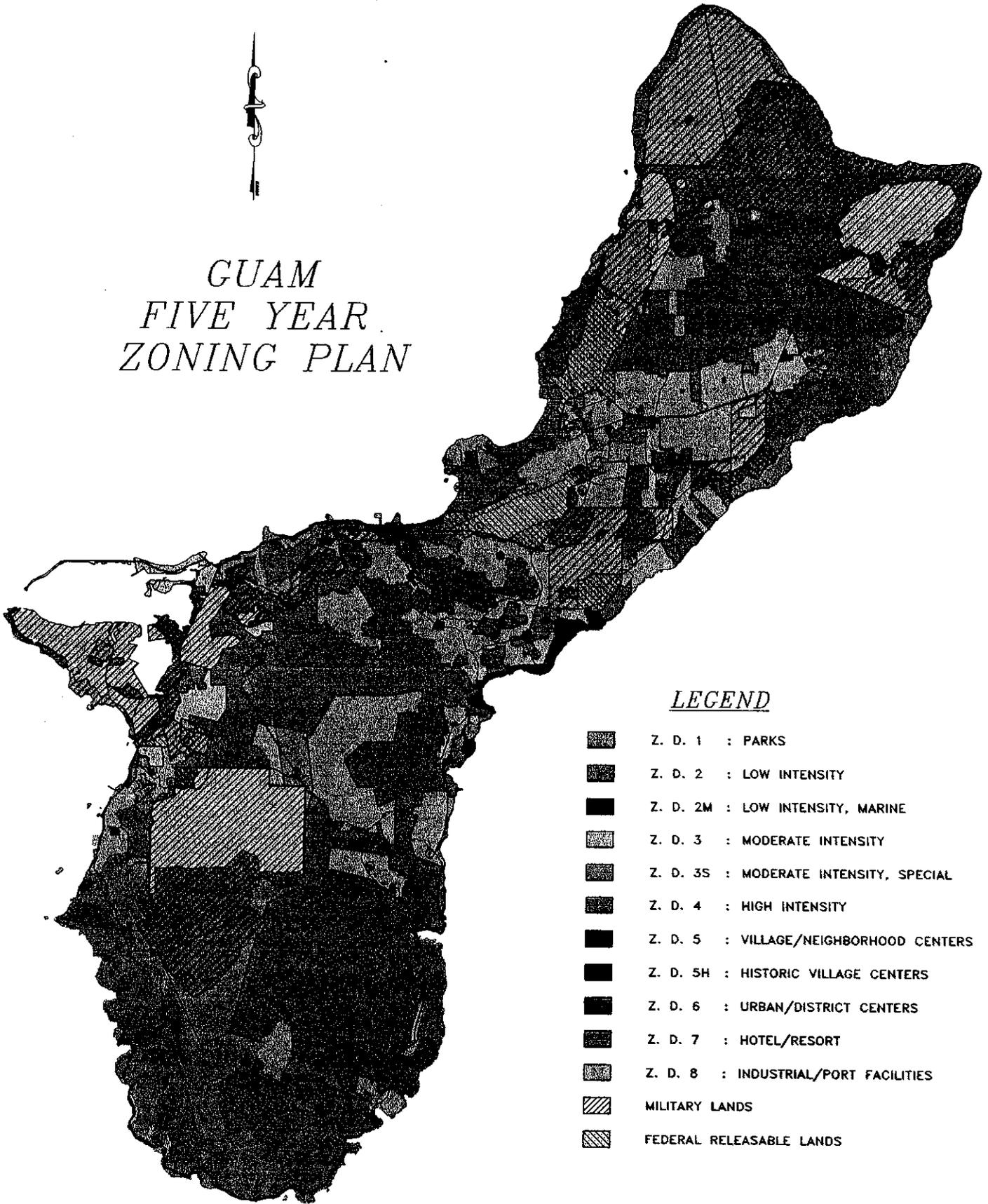
## Comments to Bill No. 237

Bill No. 237 is an Act to adopt the final land use plan, to be called the "I Tano'-Ta Land Use Plan. Section 7 of the Act authorizes \$1,880,985 from the General Fund to various agencies for FY1998 for use in funding the implementation of the Plan. It should be noted that Section 7 is not an appropriation from the General Fund, but a authorization to appropriate funds from the General Fund.

Due to the short time frame to conduct a thorough review and to gather information from the various agencies involved or from those receiving an appropriation, the Bureau is unable to determine if the proposed appropriation will be adequate to implement the Act as intended.



# GUAM FIVE YEAR ZONING PLAN



## LEGEND

-  Z. D. 1 : PARKS
-  Z. D. 2 : LOW INTENSITY
-  Z. D. 2M : LOW INTENSITY, MARINE
-  Z. D. 3 : MODERATE INTENSITY
-  Z. D. 3S : MODERATE INTENSITY, SPECIAL
-  Z. D. 4 : HIGH INTENSITY
-  Z. D. 5 : VILLAGE/NEIGHBORHOOD CENTERS
-  Z. D. 5H : HISTORIC VILLAGE CENTERS
-  Z. D. 6 : URBAN/DISTRICT CENTERS
-  Z. D. 7 : HOTEL/RESORT
-  Z. D. 8 : INDUSTRIAL/PORT FACILITIES
-  MILITARY LANDS
-  FEDERAL RELEASABLE LANDS

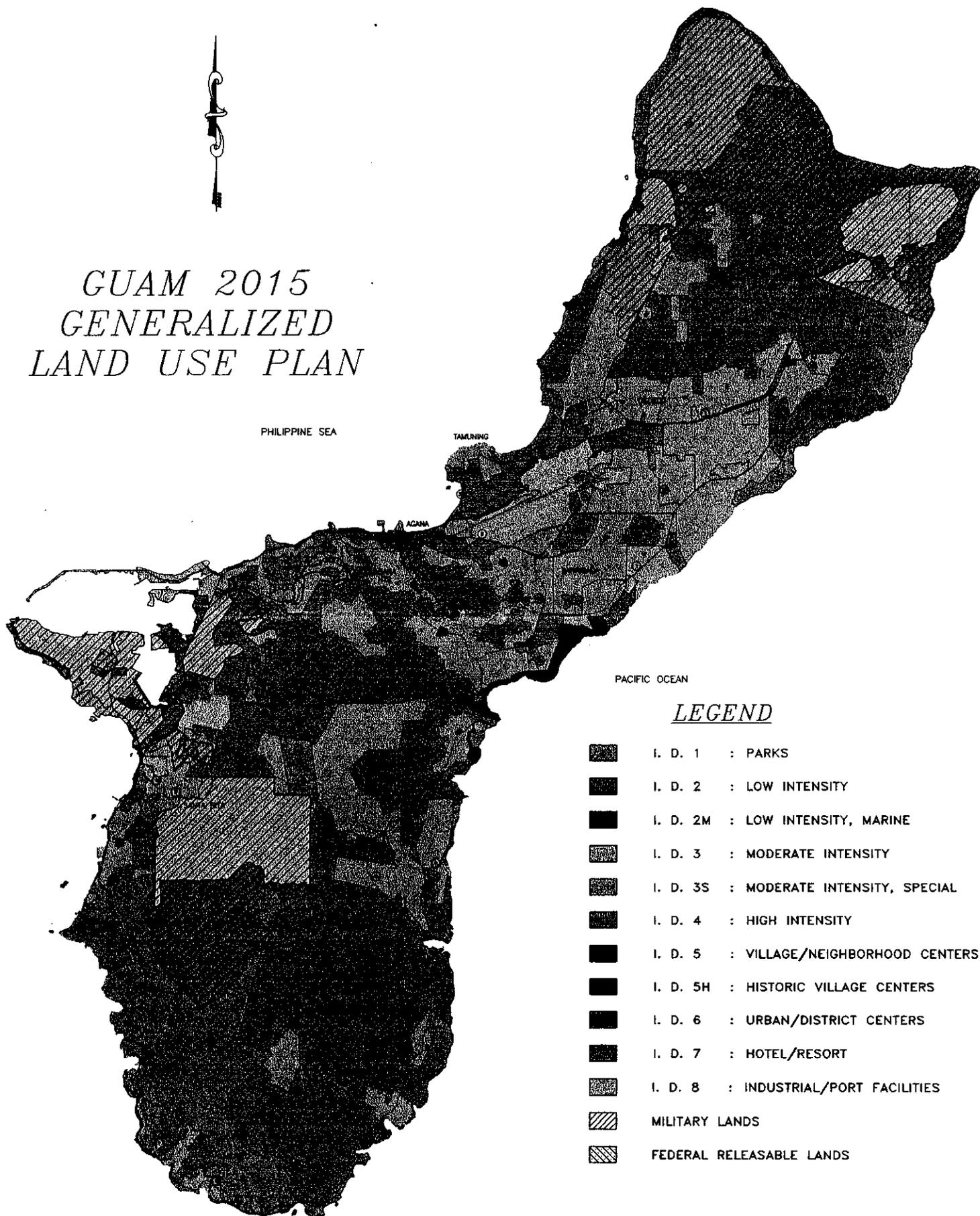
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UPDATED BY: Bureau of Planning  
MAY 1997

Source: W.B.F. / S.P.G., Joint Venture

# GUAM 2015 GENERALIZED LAND USE PLAN



## LEGEND

-  I. D. 1 : PARKS
-  I. D. 2 : LOW INTENSITY
-  I. D. 2M : LOW INTENSITY, MARINE
-  I. D. 3 : MODERATE INTENSITY
-  I. D. 3S : MODERATE INTENSITY, SPECIAL
-  I. D. 4 : HIGH INTENSITY
-  I. D. 5 : VILLAGE/NEIGHBORHOOD CENTERS
-  I. D. 5H : HISTORIC VILLAGE CENTERS
-  I. D. 6 : URBAN/DISTRICT CENTERS
-  I. D. 7 : HOTEL/RESORT
-  I. D. 8 : INDUSTRIAL/PORT FACILITIES
-  MILITARY LANDS
-  FEDERAL RELEASABLE LANDS

  
COCOS ISLAND

Updated by: Bureau of Planning  
MAY 1997